



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

DEC 18 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5952 7894

Supervisor Tim Whitesell
279 Park Avenue
Binghamton, New York 13903

**Re: Administrative Order CWA-02-2013-3001
Town of Binghamton Municipal Separate Storm Sewer System ("MS4")
SPDES Permit No. NYR20A009**

Dear Supervisor Whitesell:

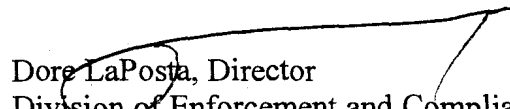
The United States Environmental Protection Agency ("EPA"), Region 2, has made a finding that the above-named municipality, Town of Binghamton ("Binghamton" or "Town"), is in violation of the Clean Water Act (33 U.S.C. §1251 et seq) ("CWA" or "Act") for New York State Department of Environmental Conservation ("NYSDEC") State Pollutant Discharge Elimination System ("SPDES") violations as described in the findings of this ORDER. Enclosed are two (2) originals of this ORDER, issued pursuant to Section 309(a) of the Act, which detail the findings.

Also enclosed is the compliance audit report for the MS4 audit conducted by EPA at the above mentioned facility on April 12 & 13, 2012.

Please acknowledge receipt of this ORDER on one of the originals and return it by mail in the enclosed envelope. Failure to comply with the enclosed ORDER may subject the municipality to civil/criminal penalties pursuant to Section 309 of the Act. Failure to comply with this ORDER shall also subject the municipality to ineligibility for participation in work associated with Federal contracts, grants or loans.

If you have any questions regarding this ORDER, please contact Mr. Douglas McKenna, Water Compliance Branch Chief, at (212) 637-4244 or Christy Arvizu at (212) 637-3961 or via e-mail at arvizu.christy@epa.gov.

Sincerely,


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Joseph DiMura, NYSDEC
Joseph Zalewski, NYSDEC Region 7

Internet Address (URL) • <http://www.epa.gov>

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Town of Binghamton
279 Park Avenue
Binghamton, New York 13903

SPDES Permit No. NYR20A009

Proceeding pursuant to Section 309(a) of the
Clean Water Act, 33 U.S.C. §1319(a)

ADMINISTRATIVE
COMPLIANCE ORDER

CWA-02-2013-3001

The following Findings of Violation are made, and Order for Compliance ("Order") issued, pursuant to Section 309(a) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §1319(a). This authority has been delegated by the Administrator of the United States Environmental Protection Agency ("EPA") to the Regional Administrator, EPA Region 2, and since further redelegated to the Director, Division of Enforcement and Compliance Assistance, Region 2, EPA.

A. Legal Authority

1. Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a), prohibits the discharge of pollutants from a point source into waters of the United States, except in compliance with, *inter alia*, Section 402 of the CWA 33 U.S.C. §1342.
2. Section 402 of the CWA, 33 U.S.C. §1342, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to that Section.
3. Section 402 of the CWA, 33 U.S.C. §1342, authorizes the Administrator of EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. The New York State Department of Environmental Conservation ("NYSDEC") is the agency with the authority to administer the federal NPDES program in New York pursuant to Section 402 of the CWA, 33 U.S.C. §1342. EPA maintains concurrent enforcement authority with authorized States for violations of the CWA. Additionally, under the authority granted to the NYSDEC by the EPA under Section 402(b) of the CWA, 33 U.S.C. §1342(b), a New York State Pollutant Discharge Elimination System ("SPDES") permit is required to be issued to facilities by the NYSDEC for the discharge of pollutants from said facilities from a point source to a navigable water of the United States.

4. "Person" is defined by Section 502(5) of the CWA, 33 U.S.C. §1362(5) to include an individual, corporation, partnership, association or municipality.
5. "Pollutant" is defined by Section 502(6) of the CWA, 33 U.S.C. §1362(6) to include among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water.
6. "Point source" is defined by Section 502(14) of the CWA, 33 U.S.C. §1362(14) to include any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
7. "Navigable waters" is defined by Section 502(7) of the CWA, 33 U.S.C. §1362(7) to include the waters of the United States.
8. "Discharge of a pollutant" is defined by Section 502(12) of the CWA, 33 U.S.C. §1362(12) to include any addition of any pollutant to navigable waters from any point source.
9. "GIS" or "Geographic Information Systems" is defined as a computer system capable of capturing, storing, analyzing, and displaying geographically referenced information; that is, data identified according to location.
10. Section 402(p) of the CWA, 33 U.S.C. §1342(p) sets forth the requirements for the discharge of stormwater, including discharges of stormwater from Municipal Separate Storm Sewer Systems ("MS4s").
11. 40 C.F.R. §122.26(b)(8), defines an MS4 as a "conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by State law)...that discharges into waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works..."
12. 40 C.F.R. §122.26(b)(3) defines "incorporated place," in part, as a city, town, township, or village that is incorporated under the laws of the State in which it is located.
13. 40 C.F.R. §122.26(b)(16)(ii) defines "small municipal separate storm sewer system," in part, as not defined as "large" or "medium" MS4s.
14. Pursuant to 40 C.F.R. §122.32(a)(1), all small MS4s located in an "urbanized area" (as determined by the latest Decennial Census by the Bureau of Census) are regulated small MS4s.

15. 40 C.F.R. §§122.33(a) and (b) require operators of regulated small MS4s to seek authorization to discharge under the applicable NPDES general permit issued by the permitting authority, by submitting a Notice of Intent ("NOI") for coverage under such permit.
16. NYSDEC issued a SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-02-02) on January 8, 2003. The SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems ("Permit") expired on January 8, 2008 and was administratively extended until the Permit was reissued on April 15, 2008 as GP-08-02. The Permit was subsequently renewed on May 1, 2010 and will expire on April 30, 2015.

B. Factual Background

1. The Town of Binghamton ("Binghamton" or "Town") is a municipal corporation chartered under the laws of the State of New York, and as such, the Town of Binghamton is a "person," as defined in Section 502(5) of the CWA, 33 U.S.C. §1362(5), and 40 C.F.R. §122.2, and is an "incorporated place" as defined in 40 C.F.R. §122.26(b)(3).
2. Binghamton owns/operates the Municipal Separate Storm Sewer, located in the Town of Binghamton, Broome County, New York and is an "owner or operator" within the meaning of 40 C.F.R. §122.2.
3. The MS4 in Binghamton is a small MS4 located in a urbanized area within the meaning of 40 C.F.R. §122.26(b)(16)(ii) and 40 C.F.R. §122.32(a)(1).
4. An MS4 is a point source within the meaning of Section 502(14) of the CWA, 33 U.S.C. §1362(14).
5. Binghamton's MS4 discharges stormwater, a pollutant within the meaning of Section 502(6) of the CWA, 33 U.S.C. §1362(6), to Bayless Creek, Park Creek, and West Fork Little Snake Creek, waters of the United States within the meaning of 502 of the CWA, 33 U.S.C. §1362, and 40 C.F.R. §122.2, and as such, discharges pollutants within the meaning of Section 502(12) of the CWA, 33 U.S.C. §1362(12).
6. The Town submitted a Notice of Intent ("NOI") under the SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-02-02) on March 3, 2003. The NOI was received by NYSDEC on March 4, 2003 and issued SPDES Permit No. NYR20A009. Upon expiration of GP-02-02 on January 8, 2008, permit coverage was automatically carried over to the reissued NYSDEC SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-08-002), which became effective on May 1, 2008 and expired on April 30, 2010. At that time, permit coverage was automatically carried over to the reissued NYSDEC SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-0-10-002) which went into effect on May 1, 2010 and will expire on April 30, 2015.

7. EPA, accompanied by its contractor and NYSDEC, conducted a compliance audit of the Town's MS4 on April 12-13, 2012.
8. NYSDEC General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-0-10-002), effective on May 1, 2010, was the effective permit at the time of the audit.

C. Findings of Violation

During the compliance audit on April 12-13, 2012 and documented in the accompanying compliance audit report, EPA observed the following violations of the Town of Binghamton's SPDES permit (NYR20A009):

1. Part IV.A of the Permit which addresses Stormwater Management Programs ("SWMP") states that "covered entities must develop (*for newly authorized MS4s, implement*), [sic] and enforce a SWMP designed to reduce the discharge of pollutants from small MS4s to the maximum extent practicable ("MEP") in order to protect water quality and to satisfy the appropriate water quality requirements of the ECL and the CWA." Part IV.A of the Permit also states "covered entities under GP-0-08-002 must have prepared a SWMP plan documenting modifications to their SWMP." Part IV.D of the Permit further states that "covered entities authorized under GP-0-08-002 shall continue to fully implement their SWMP, unless otherwise stated in this SPDES general permit." Part IV.F of the Permit states that each covered entity is required to develop (*for newly authorized MS4s*) and implement a SWMP that satisfies the requirements for each of the six required program components, known as minimum control measures ("MCMs"). During the audit, it was observed that the Town of Binghamton did not have a SWMP plan. The Town of Binghamton was authorized under GP-0-08-002 and did not prepare a SWMP plan documenting modifications to its SWMP as it did not have one. Therefore, the Town of Binghamton failed to develop, implement and enforce a Stormwater Management Program, in violation of Part IV.A, Part IV.D and Part IV.F of the Permit.
2. Part VII.A.3.b of the Permit requires that the Town "develop (*for newly authorized MS4s*) and maintain a map, at a minimum within the *covered* entity's jurisdiction in the *urbanized area* and *additionally designated area*." Part VII.A.3.b.i states that the map must include the location of all outfalls and the names and location of all surface waters of the State that receive discharges from those outfalls. In addition, Part VII.A.3.b.ii states that the preliminary boundaries of the Town's storm sewersheds should have been determined using GIS or other tools by March 9, 2010. During the audit, the Town stated that it had not developed a map of its storm sewer system. Therefore, the Town of Binghamton failed to map its storm sewer system and preliminary boundaries of the Town's storm sewersheds, in violation of Part VII.A.3.b of the Permit.
3. Part VII.A.3.c of the Permit requires that the Town "field verify outfall locations." During the audit, the Town stated while the Town Highway Superintendent had knowledge of the storm drain system from his maintenance activities, the Town had not formally field verified outfall locations. Therefore, the Town of Binghamton failed to field verify outfall locations, in violation of Part VII.A.3.c of the Permit.

4. Part VII.A.3.d of the Permit requires that the Town “conduct an outfall reconnaissance inventory...addressing every outfall within the urbanized area and additionally designated area within the covered entity’s jurisdiction at least once every five years, with reasonable progress each year.” During the audit, it was observed that the Town had not conducted an outfall reconnaissance inventory of every outfall within the urbanized area and any additionally designated areas within the Town’s jurisdiction, nor had the Town demonstrated reasonable progress each year since 2008. Therefore, the Town of Binghamton failed to conduct an outfall reconnaissance inventory, in violation of Part VII.A.3.d of the Permit.
5. Part VII.A.3.f of the Permit requires the Town to “prohibit through a law, ordinance, or other regulatory mechanism, illicit discharges into the small MS4 and implement appropriate enforcement procedures and actions.” During the audit, it was observed that the Town did not have an ordinance, law, or other regulatory mechanism to prohibit illicit discharges into the small MS4. Town staff provided a letter from a Town consultant dated February 19, 2009 indicated that the Town’s consultant had informed the Town Board of the need to adopt an illicit discharge ordinance. Yet, the Town had not taken action to do so. Therefore, the Town of Binghamton failed to prohibit through a law, ordinance, or other regulatory mechanism, illicit discharges into the small MS4, in violation of Part VII.A.3.f of the Permit.
6. Part VII.A.3.g of the Permit requires that the Town “develop (*for newly authorized MS4s*) and implement a program to detect and address non-stormwater discharges, including illegal dumping, to the small MS4 in accordance with current assistance and guidance documents from the State and EPA. The program must include: procedures for identifying priority areas of concern (geographic, audiences, or otherwise) for the IDDE program; description of priority areas of concern, available equipment, staff, funding, etc...” According to the Town’s 2010-2011 Annual Report, the Town stated that it had not targeted any “generating sites/ sewersheds” for inspection during the reporting period. In addition, prior to the audit, the EPA audit team formally requested a priority list of risk areas in the storm drain system for the most recent reporting year, however the Town did not provide the requested information. Therefore, the Town of Binghamton failed to identify priority areas of concern for the IDDE program and identify procedures or actions that must be taken for those priority areas, in violation of Part VII.A.3.g of the Permit.
7. Part VII.A.4.a.i of the Permit requires that the Town develop (*for newly authorized MS4s*), implement and enforce a construction site stormwater runoff control program that “provides equivalent protection to the NYS SPDES General Permit for Stormwater Discharges from Construction Activities (either GP-02-01, GP-0-08-001 or GP-0-10-001), unless more stringent requirements are contained within this SPDES general permit.” During the audit, it was observed that there were two construction sites with land disturbance in the Town that qualified for coverage under the NYS SPDES General Permit for Stormwater Discharges from Construction Activities, Stanton Fill Site and Muska Fill Site. However, the sites had not obtained coverage under the NYS SPDES General Permit for Stormwater Discharges from Construction Sites. It was observed that the Town had completed the required MS4 Stormwater Pollution Prevention Plan (SWPPP) Acceptance Forms for each site; however, the site owners had not submitted

the respective forms or the NOI for coverage to NYSDEC. The Town Code Enforcement Officer stated that he was unaware that coverage for the NYS SPDES General Permit for Stormwater Discharges from Construction Sites had not been granted to either site. Therefore, the Town of Binghamton failed to develop, implement and enforce a construction site stormwater runoff control program that provided equivalent protection to the NYS SPDES General Permit for Stormwater Discharges from Construction Sites, in violation of Part VII.A.4.a.i of the Permit.

8. Part VII.A.4.a.iii of the Permit requires that the Town develop (*for newly authorized MS4s*), implement and enforce a construction site stormwater runoff control program that “includes a law, ordinance, or other regulatory mechanism to require a SWPPP for each applicable land disturbing activity that includes erosion and sediment controls that meet the State’s most current technical standards...” During the audit, it was observed that the Town did not have an ordinance, law, or other regulatory mechanism requiring a SWPPP for applicable land disturbance activities that include erosion and sediment controls. Town staff provided a letter from a Town consultant dated February 19, 2009 indicated that the Town’s consultant had informed the Town Board of the need to adopt a stormwater ordinance. Yet, the Town had not taken action to do so. Therefore, the Town of Binghamton failed to develop, implement and enforce a construction site stormwater runoff control program that included requiring a SWPPP for applicable land disturbance activities through a law, ordinance, or other regulatory mechanism, in violation of Part VII.A.4.a.iii of the Permit.
9. Part VII.A.4.a.vii of the Permit requires that the Town develop (*for newly authorized MS4s*), implement and enforce a construction site stormwater runoff control program that “describes procedures for SWPPP [Stormwater Pollution Prevention Plan] review with consideration of potential water quality impacts and review of individual SWPPPs to ensure consistency with State and local sediment and erosion control requirements.” During the audit, it was observed that the Town had not documented its SWPPP review procedures. Therefore, the Town of Binghamton failed to develop, implement and enforce a construction site stormwater runoff control program which includes describing SWPPP review procedures, in violation of Part VII.a.4.vii of the Permit.
10. Part VII.A.5.iii of the Permit requires that the Town develop (*for newly authorized MS4s*), implement and enforce a program that “includes a law, ordinance, or other regulatory mechanism to require post construction runoff controls from new development and re-development projects to the extent allowable under State law that meet the State’s most current technical standards...” During the audit, it was observed that the Town did not have an ordinance, law, or other regulatory mechanism requiring post construction runoff controls from new development and re-development projects. Town staff provided a letter from a Town consultant dated February 19, 2009 indicated that the Town’s consultant had informed the Town Board of the need to adopt a stormwater ordinance. Yet, the Town had not taken action to do so. Therefore, the Town of Binghamton failed to develop, implement and enforce a program that included requiring a law, ordinance, or other regulatory mechanism requiring post construction runoff controls from new development and re-development projects, in violation of Part VII.A.5.a.iii of the Permit.

11. Part VII.A.5.a.v of the Permit requires that the Town develop (*for newly authorized MS4s*), implement and enforce a post-construction stormwater management program that “describes procedures for SWPPP [Stormwater Pollution Prevention Plan] review with consideration of potential water quality impacts and review of individual SWPPPs to ensure consistency with State and local post-construction stormwater requirements.” During the audit, it was observed that the Town had not developed a procedure for SWPPP review for post-construction stormwater requirements. Therefore, the Town of Binghamton failed to develop a program which includes SWPPP post-construction review procedures, in violation of Part VII.A.5.a.v of the Permit.
12. Part VII.A.6.a.i of the Permit requires that the Town develop (*for newly authorized MS4s*) and implement a pollution prevention / good housekeeping program for municipal operations and facilities that “addresses municipal operations and facilities that contribute or potentially contribute POCs [pollutants of concern] to the small MS4 system.” During the audit, it was observed that the Town failed to fully implement appropriate Best Management Practices (BMPs) throughout the MS4 at its municipally owned facilities that contribute or potentially contribute pollutants of concern to the MS4. Specifically, EPA observed the following violations:
 - a. Lack of wash water containment BMPs at the Town Highway Garage. The EPA audit team observed a Town employee washing a street sweeper outside of the main garage in a gravel area adjacent to the West Fork of the Little Snake Creek. Wash water from the operation was flowing north overland approximately ten feet and actively discharging into the creek.
 - b. Lack of salt storage containment BMPs at the Town Highway Garage. The EPA audit team observed salt residue trailing from a large sand/salt stockpile toward the West Fork of the Little Snake Creek. An area of ponded water was observed in the southwest area of the Town Highway Garage site, adjacent to Hawleytown Road. The EPA audit team observed a wet trail from the ponded area that came into contact with the sand/salt stockpile which then led north approximately twenty feet towards a drainage inlet that discharged into the West Fork of the Little Snake Creek. The EPA audit team also observed that the salt shed used for storage by the Town is open to the north with the area directly outside the shed sloping downward toward the West Fork of the Little Snake Creek. The EPA audit team observed salt stored in close proximity to the open north side, and in some areas beyond the overhead coverage provided by the roof, adjacent to standing water.
 - c. Lack of containment BMPs for multiple soil and rock stockpiles at the Town Highway Garage. The EPA audit team observed lack of perimeter control barriers at stockpiles at the Town Highway Garage located adjacent to the bank of the West Fork of the Little Snake Creek.
 - d. General lack of BMPs. The EPA audit team observed a hose at the Town Highway Garage used to fill Town trucks with liquid deicing product directly adjacent to a storm drain inlet which is connected to an outfall pipe located approximately 125 feet north along the West Fork of the Little Snake Creek.

Therefore, the Town of Binghamton failed to fully implement a pollution prevention / good housekeeping program that addresses municipal operations and facilities that

contribute or potentially contribute pollutants of concern to the Town's MS4 system, in violation of Part VII.A.6.a.i of the Permit.

13. Part VII.A.6.a.ii of the Permit requires that the Town perform and document a self assessment of all municipal operations addressed by the SWMP at a minimum frequency of once every three years. During the review of the Town's 2010-2011 Annual Report, the Town stated that self assessments had been completed for eleven of fourteen listed operations/activities/facilities, including "Municipal Buildings and Vehicle and Fleet Maintenance." However, during the audit, it was observed that the Town failed to conduct self assessments of its municipal operations as required. Therefore, the Town of Binghamton failed to conduct and document self assessments of municipal operations as required, in violation of Part VII.A.6.a.ii of the Permit.
14. Part VII.A.6.a.iii of the Permit requires that the Town develop (*for newly authorized MS4s*) and implement a pollution prevention / good housekeeping program for municipal operations and facilities that determines management practices, policies, procedures, etc. that will be developed and implemented to reduce or prevent the discharge of (potential) pollutants. During the audit, it was observed that the Town had not developed management practices, policies or procedures to reduce or prevent the discharge of pollutants. Specifically, during the audit, it was observed that there was no procedure or policy in place for vehicle washing. The audit team observed a street sweeper being washed outside of the Town Highway Main Garage in a gravel area adjacent to the West Fork of Little Snake Creek. Wash water was flowing north overland approximately ten feet and actively discharging into the West Fork of Little Snake Creek. The Town Highway Superintendent stated that employees wash vehicles and equipment at this location and do not wash vehicles inside the main garage building. Therefore, the Town of Binghamton failed to develop and implement management practices, policies, procedures, etc. to reduce or prevent discharges of pollutants, in violation of Part VII.A.6.a.iii of the Permit.
15. Part VII.A.6.a.vi of the Permit requires that the Town develop (*for newly authorized MS4s*) and implement a pollution prevention / good housekeeping program for municipal operations and facilities that "includes an employee pollution prevention and good housekeeping training program and ensures [sic] that staff receive and utilize training." During the review of the Town's 2010-2011 Annual Report, the Town stated that two trainings had been provided to employees during the reporting period and that the last training occurred on March 31, 2009. The Town also stated in its 2010-2011 Annual Report that two employees had been trained during the reporting period and that 2% of employees in relevant positions and departments had received stormwater training. However, during the audit, the Town stated that no employees had received training. Therefore, the Town of Binghamton failed to develop an employee pollution prevention and good housekeeping training program, in violation of Part VII.A.6.a.vi of the Permit.

D. Ordered Provisions

Based on the Findings of Violation set forth above, and pursuant to Section 309(a) of the CWA, 33 U.S.C. §1319(a), the Town of Binghamton is hereby ORDERED to take the following actions:

1. Immediately upon receipt of the original copies of this Order, a responsible official of the Town of Binghamton shall complete and sign the acknowledgment of receipt of one of the originals of the Order and return said original to Chief, Water Compliance Branch, Division of Enforcement and Compliance Assistance, in the enclosed envelope, to the address listed below, in paragraph D.4.
2. The Town of Binghamton shall complete the following items in accordance with the schedule listed below:

<u>Item</u>	<u>Completion</u>
i. Immediately develop and submit to EPA and NYSDEC, a Stormwater Management Program (SWMP) Plan in accordance with the requirements of Part IV.A and IV.F of the Permit. Plan shall be implemented upon EPA approval.	February 28, 2013
ii. Immediately develop a map identifying the location of all outfalls and the names and locations of all surface waters of the State that receive discharges from those outfalls, as required by Part VII.A.3.b.i of the Permit.	June 30, 2013
iii. Immediately map, and submit to EPA, the preliminary boundaries of the storm sewersheds of the Town's urbanized area, and any additionally designated area within the Town's jurisdiction, as required by Part VII.A.3.b.ii of the Permit.	June 30, 2013
iv. Field verify outfall locations, as required by Part VII.A.3.c of the Permit.	June 30, 2013
v. Conduct an outfall reconnaissance inventory ... addressing every outfall within the urbanized area and additionally designated area within the Town of Binghamton, as required by Part VII.A.3.d of the Permit.	June 30, 2013
vi. Adopt and enforce an illicit discharge law, ordinance, or other regulatory mechanism, as required by Part VII.A.3.f of the Permit.	March 31, 2013
vii. Develop and submit to EPA and NYSDEC, a program to detect and address non-stormwater discharges, including illegal dumping to the Town of Binghamton. The program must include: procedures for identifying priority areas of concern (geographic, audiences, or otherwise) for the illicit discharge detection and elimination program; description of priority areas of concern, available equipment, staff, funding, etc..., as required by Part VII.A.3.g of the Permit. Program shall be implemented and enforced upon EPA approval.	February 28, 2013
viii. Develop and submit to EPA and NYSDEC, a construction site stormwater program that provides equivalent protection to the New York State SPDES	February 28, 2013

General Permit for Stormwater Discharges from Construction Activities (GP-0-10-001), as required by Part VII.A.4.a.i of the Permit. Program shall be implemented and enforced upon EPA approval.		
ix.	Adopt and enforce a law, ordinance, or other regulatory mechanism requiring a Stormwater Pollution Prevention Plan (SWPPP) for each applicable land disturbing activity that includes erosion and sediment controls that meet the State's most current technical standards, as required by Part VII.A.4.a.iii of the Permit.	March 31, 2013
x.	Develop and submit to EPA and NYSDEC, procedures for Stormwater Pollution Prevention Plan (SWPPP) review with consideration of potential water quality impacts and review of individual SWPPPs to ensure consistency with State and local sediment and erosion control requirements, as required by Part VII.A.4.a.vii of the Permit. Procedures shall be implemented after EPA approval.	February 28, 2013
xi.	Adopt and enforce a law, ordinance, or other regulatory mechanism requiring post construction runoff controls from new development and re-development projects to the extent allowable under State law that meet the State's most current technical standards, as required by Part VII.A.5.a.iii of the Permit.	March 31, 2013
xii.	Develop and submit to EPA and NYSDEC, procedures for Stormwater Pollution Prevention Plan (SWPPP) review with consideration of potential water quality impacts and review of individual SWPPPs to ensure consistency with State and local post-construction stormwater requirements as required by Part VII.A.5.a.v of the Permit. Procedures shall be implemented after EPA approval.	February 28, 2013
xiii.	Develop and submit to EPA and NYSDEC, a pollution prevention / good housekeeping program for municipal operations and facilities that addresses municipal operations and facilities that contribute or potentially contribute pollutants of concern to the Town of Binghamton's MS4 system, as required by Part VII.A.6.a.i of the Permit. Program shall be implemented after EPA approval.	February 28, 2013
xiv.	Implement appropriate Best Management Practices (BMPs) in accordance with Part VII.A.6.a.i of the Permit:	
	a. Implement wash water containment BMPs at the Town Highway Garage.	May 31, 2013
	b. Implement salt storage containment BMPs at the Town Highway Garage.	February 28, 2013

<p>c. Establish containment BMPs for the soil and stockpiles located adjacent to the bank of the West Fork to the Little Snake Creek.</p> <p>d. Implement BMPs that ensure protection against discharges from deicing product into the West Fork to the Little Snake Creek.</p> <p>Submit a written summary of actions, including photographs, taken for each required item to EPA.</p>	<p>February 28, 2013</p> <p>February 28, 2013</p>
<p>xv. Perform a self assessment of all municipal operations addressed by the SWMP to determine sources of pollutants and identify the municipal operations and facilities that will be addressed by the pollution prevention / good housekeeping program, as required by Part VII.A.6.a.ii of the Permit.</p>	<p>February 28, 2013</p>
<p>xvi. Develop and submit to EPA and NYSDEC, management practices, policies, procedures that will be developed and implemented to reduce or prevent the discharge of (potential) pollutants, as required by Part VII.A.6.a.iii of the Permit. Management practices, policies, procedures shall be implemented after EPA approval.</p>	<p>April 30, 2013</p>
<p>xvii. Develop and submit to EPA and NYSDEC, an employee pollution prevention and good housekeeping training program that ensures employee training is provided to staff and utilized as required by Part VII.A.6.a.vi of the Permit. Program shall be implemented upon EPA approval.</p>	<p>March 31, 2013</p>
<p>xviii. Submit bi-monthly progress reports to EPA and NYSDEC outlining all activities undertaken and costs associated with compliance with this Order until final compliance is achieved.</p>	<p>March 31, 2013 May 31, 2013 July 31, 2013</p>

3. Any document submitted by the Town of Binghamton as part of this Order shall be sent by certified mail or its equivalent and shall be signed by an authorized representative of the respective entity (see 40 CFR §122.22), and shall include the following certification:

"I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for knowing violations."

4. All submissions required by this Order shall be sent to:

Douglas McKenna, Chief
Water Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency, Region 2
290 Broadway, 20th Floor
New York, NY 10007

With a copy mailed to:

Joseph Zalewski, Regional Water Engineer
NYSDEC Region 7 Office
615 Erie Boulevard West
Syracuse, NY 13204

E. General Provisions

1. Any documents to be submitted by the Town of Binghamton as part of this Order shall be sent by certified mail or its equivalent and shall be signed by an authorized representative of the respective entity (see 40 CFR §122.22), and shall include the following certification:

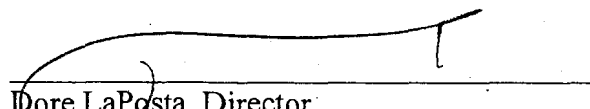
"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. The Town of Binghamton shall have the opportunity, for a period of twenty (20) days from the date of receipt of this Order, to confer, regarding the Ordered Provisions, with the following designated Agency representative:

Douglas McKenna, Chief
Water Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway - 20th floor
New York, NY 10007-1866
(212) 637-4244

3. The Town of Binghamton has the right to seek immediate federal judicial review of this Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, which provides the grounds for such review.
4. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, its implementing regulations, or any applicable permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.
5. Notice is hereby given that, should EPA commence an action in a United States District Court for a violation of any Ordered Provision of this Order, the Town of Binghamton may be subject to (1) civil penalties up to \$37,500 per day for each day of violation, pursuant to Section 309(d) of the CWA, 33 U.S.C. §1319(d), and/or (2) injunctive relief, pursuant to Section 309(b) of the CWA, 33 U.S.C. §1319(b), as imposed by the Court.
6. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.
7. This Order shall become effective upon the date of execution by the Director, Division of Enforcement and Compliance Assistance.

DECEMBER 18, 2012
Date


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Town of Binghamton
279 Park Avenue
Binghamton, New York 13903

Respondent

Proceeding pursuant to §309(a) of the Clean Water
Act, 33 U.S.C. §1319(a)

ADMINISTRATIVE
COMPLIANCE ORDER

CWA-02-2013-3001

ACKNOWLEDGMENT OF RECEIPT OF
ADMINISTRATIVE COMPLIANCE ORDER

I, _____, an official with the Town of Binghamton with the
title of,

_____, do hereby acknowledge the receipt of a copy of the

ADMINISTRATIVE COMPLIANCE ORDER, Town of Binghamton, CWA-02-2013-3001.

DATE: _____

SIGNED: _____